ETUC Position for an EU Social Taxonomy of Sustainable Investments

Adopted at the virtual Executive Committee Meeting of 16-17 March 2022

SUMMARY

The ETUC considers that a legal and enabling framework for sustainable investments can be beneficial as far as it aligns private and public investments to the same policy objectives, in particular to the EU Green Deal and the European Pillar of Social Right, and their corollaries and implementing acts. An EU Taxonomy should prevent any form of green, social or rainbow washing and can never be considered a means to replace public investments with private ones. On the contrary, the EU Taxonomy should favour a better allocation of resources to activities and entities that engage in the objectives of the Green Deal and of the European Pillar of Social Rights with the final aim to create jobs and boost upward convergence of living and working conditions in Europe.

GENERAL PRINCIPLES

The EU nurtures the legitimate ambition to develop a sound capital market, which could boost investments in Europe and improve the potential for job creation. However, people will benefit from this strategy only if the Capital Union is aimed at promoting patient capital funds that are able to dialogue with unions and meet the environmental and social ambitions of the EU. The EU's internal market should become a space for the sustainable economy and should be made to be a standard setting for the rest of the world.

This overall objective pursued by the EU is at odds with the rather technocratic **process used to define the EU Taxonomy**. The Platform on Sustainable Finance should include a wider representation of trade unions and provide an opportunity for input from stakeholders During the legislative procedure establishing the social taxonomy, trade unions remain key stakeholders. An inclusive, continuous, outcome-focused dialogue with stakeholders needs to be set up.

The EU Taxonomy for sustainable investments should provide a definition of sustainability that covers all the dimensions of sustainability, as proposed by the United Nations Agenda 2030 of the UN. The SDG approach to sustainable investments is gaining ground (e.g. sustainability-linked bonds) and has to be reflected in the EU Taxonomy, especially, if it encourages investors and economic entities to consider the different dimensions of sustainability in their investment strategies and ensure a fair transition to a greening economy.

The alignment to the EU Taxonomy remains a voluntary decision while sustainability should be compulsory for modern businesses. If investors and issuers can access patient capital and better market conditions by demonstrating they are aligned to the taxonomy it is plausible that investors and issuers accept to be submitted to procedural, regulatory frameworks and performance requirements that guarantee a measurable and verifiable sustainability return on investments.

The EU Social taxonomy would be an internal market act, therefore we expect that the taxonomy will support the social objectives of the EU and will endorse the European Pillar of Social Rights, promoting a SDG8-centred approach to social progress. Since the EU taxonomy can be of use for both private and public sector, it should build common intents between public and private actors to pursue publicly agreed programmes for social progress. It is important to develop a coherent framework for corporate sustainability so that company directors can take actions that respond to requirements of both investors and regulators.

In this regard, it is desirable that the social taxonomy could be referred to not only specific activities but also to the purpose of entities so that proceeds stemming from social sustainable securities can be used to either increase socially sustainable assets or increase the number of entities that meet key social performance indicators. The application of collective agreements, the establishment of a works council as well as participation of employees in the company boards, according to national employee participation systems, must be central categories in the social taxonomy. At the same time, entities which engage in union busting, avoid participation and worker rights cannot be labelled as socially sustainable. The EPSR and the SDG frameworks offer a solid framework and metric for the EU taxonomy.

Social investments could bring about the risk that private investments replace the essential role of public investments in building common goods and well-being of people. The EU Taxonomy should identify these risks clearly and provide guidance to avoid them. When appropriate, legal safeguards should be introduced to compel private investments producing common goods and services of general interest to meet requirements that maximise the benefits for the final users and for workers' protection.

Lack of transparency in setting social standards result in the high risks of rainbow/social washing. The status of the implementation of OECD Guidelines for Multinational companies, the ILO conventions, and the UNGP HR show that the greatest number of violation of HR relate to employment and workers vulnerability. The ITUC index of Human Rights indicates that violations of labour related human rights are common in both developed and developing countries and constitutes a material risk for those that want to use sustainable financial products. In this regard, we note that it is very unusual that workers' unions are involved in the definition of standards for socially sustainable products and this creates a significant flaw in the functioning of the sustainable financial market. Nonetheless, social washing practices are not only harmful to sustainability but also mislead workers, consumers, clients and financial market players. That is why the EU Taxonomy should prevent such practices, by introducing dissuasive and effective sanctions.

A full-fledged social taxonomy requires measures that ensure transparency and accountability from both the investor and companies, with a greater involvement of trade unions. The reporting requirements have to be developed in order to make it mandatory to adequately meet the requirement of reporting according to the double materiality principle. The existence and compliance with collective agreements is one of the most important proxy for respect of labour standards and action toward social progress for the operators of the financial market as well. Trade unions are better placed to map risks, and ensure avoidance and offer remedies, at company and industry level, in situations of infringement of labour rights.

Even if the EU Taxonomy is mainly aimed at regulating in-EU financial transactions, the EU Taxonomy has strong international connotations. It is important that the EU overall taxonomy is strongly anchored to the most important labour standards as in article 18 of the Regulation (EU) 2020/852 (Taxonomy) on the establishment of a framework to facilitate sustainable investment. The EU taxonomy should have the ambition to set a standard of adherence to Human Rights and the eight fundamental ILO Conventions all over the world.

Minimum safeguards in the Green Transition cannot fix all social aspects of sustainable finance. This is because the economic transitions to which the EU economy is subject to are wider than the green ones and concern the digital transformations, technological change, demographic challenges, global competition and trade developments, etc. In this regard, the EU social taxonomy should incentivise investments for a just transition, in order to transform change into opportunity for regions, local communities and group of populations that are particularly exposed or vulnerable in this economic phase.

The EU Taxonomy should not be compatible with aggressive tax planning and tax avoidance practices. The ETUC thinks it is of utmost importance to continue the effort, to extend the public Country by Country reports, to cover, on disaggregated basis, all countries where companies have activities, and to get rid of the corporate-get-out clause. The latter allows companies to delay reporting up to five years if it is deemed "seriously prejudicial to the commercial positions of the undertakings".

ETUC SPECIFIC DEMANDS

The ETUC asks that the EU Taxonomy is extended to social investments preserving an integrated approach that compel both social and green objectives in a single taxonomy. A specific EU act should define substantial contribution to social objectives and identifies areas that should not receive harm from social investments. The social taxonomy should also introduce minimum safeguards according to which social investments should be compatible with the green taxonomy.

The ETUC asks that the EU taxonomy could be applied to economic activities and economic entities so as to develop both the vertical and horizontal dimension of the taxonomy. The EU taxonomy should be applicable to entities (public or private) whose purposes are aligned with the taxonomy and whose impact is measured through key performance indicators.

The ETUC asks that the social taxonomy contributes to the allocation of resources to activities or entities that contribute substantially to the implementation of the EPSR, following a SDG8 centred approach to SDGs, and to the framework agreed by social partners. When contributing to the achievement of such objectives the Do Not Harm Principle should prevent harmful consequences on other sustainability factors and prevent from breaching fundamental rights (see annex 1 for more details)

Minimum safeguards should be regulated in a way that promote just transitions. An EU Standard cannot be limited to check-and-remedy to cope with situations of infringement of international standards. As the EU Taxonomy accelerates the green and digital transition, the EU taxonomy should engage companies in promoting international standards in order to engage with just labour transitions. In 2015, the ILO adopted Guidelines on Just Transition. Collective bargaining remains the main way to establish a just transition framework in entities that want to use sustainable finance instruments. These norms can be used as reference to develop KPI for the use of investors, companies and all other relevant players in the financial market.

The ETUC considers that substantial progress can be better achieved through a material engagement of sustainable investors in the respect and promotion of employee participation practices. The EU social taxonomy should require investees to disclose how employees are involved and contribute to the achievement of social objectives, having regard of EU frameworks on information and consultation of employees, national legal provisions concerning employee involvement and applicable collective bargaining provisions.

The increasing demand of sustainable securities is also driven by an excess of liquidity and speculative approaches in the field of sustainable finance, this has to be prevented. The EU taxonomy should require companies using sustainable investments to provide detailed information on total return over the lifespan of the investment and how extraction of resources (including remuneration of board members and executive managers) can impact remuneration of work. Any form of tax elusion or avoidance should be incompatible with the EU Taxonomy.

The EU social taxonomy should rely on mandatory and effective due diligence procedures, with full involvement of trade unions and workers' representatives in the whole due diligence process, covering companies' activities and their business relationships, including their supply and subcontracting chains. Therefore, there should be full consistency and complementarity between the EU taxonomy and the EU frameworks concerning Corporate Sustainability Reporting and the Corporate Sustainability Due Diligence. Consequently, Companies should be accountable for the impacts of their operations and effective remedies and access to justice should be available for victims, including trade unions. Liability must be introduced for cases where companies fail to respect their due diligence obligations, without prejudice to joint and several liability frameworks. Furthermore, it is important that due consideration is also given to the way in which companies handle issues such as internal and external reporting/whistleblowing, with an emphasis being placed on both methods being made available; and the identity of the whistleblower being kept confidential as much as possible, to avoid reprisals.

The EU taxonomy should treat risks deriving from subcontracting chains. They need to be held responsible for monitoring and securing decent working conditions throughout their supply chain and contractors. The EU taxonomy has to be aligned to the upcoming EU proposal to establish a European Directive on mandatory Human Rights due diligence and responsible business conduct.

The ETUC asks the EU regulators not to prejudicially exclude economic sectors with the presumption of being harmful to a sustainability agenda. Jobs are never unsustainable while dialogue with workers and their trade unions can support sustainable investments to adapt industries and companies to sustainability requirements. The ETUC would privilege investment strategies that, through investors engagement and employee involvement, can set sectors and economic entities on the sustainability track. Sectoral social dialogue can contribute a lot to identify just transition measures, recognizing sector-based risks and providing guidance for remedy and avoidance of non-sustainable behaviours. In that regard, instead of proceeding to prejudged exclusions that could be detrimental for jobs and workers of the excluded sectors, the ETUC asks to set up an enabling environment for social dialogue to contribute to the deployment of fair socially sustainable financial products (See Annex 1).

Since the finance sector will have to work extensively to implement the EU Taxonomy, in all its aspects, it is important that the workers tasked with ensuring this implementation are properly trained to do so, to be able to make an informed decision about whether or not an investment lives up to these requirements, as well as how best to advise their clients on investments with a high social impact. This includes, but is not limited to, providing detailed guidance for usage of templates and dilemma training for employees, as well as a streamlining of rules, to avoid overlaps of different pieces of legislation on sustainability issues. Unnecessary duplication of work and excessive reporting should be avoided.

The expansion of the Platform on Sustainable Finance's work on aspects of a Social Taxonomy. Similar resources and efforts should be dedicated on developing this aspect of the Taxonomy as those put into the environmental aspects, which would also include inviting and working with a wider selection of trade unions and CSO's than has been the case so far.

ANNEX 1 – Substantial Contribution and Do Not Harm Principle in the ETUC proposals

As the EU is engaged in promoting private (e.g. through the InvestEU fund and EIB) and public investments (e.g. through the RFF and the MFF), it is highly recommended that sustainable investments should substantially contribute to the achievement of the principles of the European Pillar of Social Rights, while the SDG8-centred approach will help develop the Do Not Harm Principle because interrelations of the SDG8 with other SDGs allow to identify the risks of harmful effects of social investments in other areas of development.

The EPSR and the SDG8-centred approach to an EU social taxonomy implies that investments that are aimed at ensuring that public services, services of general interests and other services that are essential to human development and well-being of local communities, better contribute to the achievement of EPSR and SDGs if they are public investments.

The ETUC asks that the social taxonomy contributes to the allocation of resources to activities or entities that contribute substantially to the achievement of either:

a. One or more principles of the European Pillar of Social Rights, having regard of its implementing tools including the EU Recommendation on access to social protection, Recommendation on EASE, and other acts that implement the EPSR; or

b. One of the SDG8-related sub-targets and targets such as in SDG 1 (poverty), SDG 3 (health), SDG 4 (education and training), SDG 5 (women) and SDG 10 (inequalities); or

c. One of the frameworks agreed by social partners at European level such as digitalisation, active ageing and intergenerational approach, and youth employment.

The ETUC asks that the EU taxonomy would establish that investments that:

a. contribute to one or more principles of the EPSR should not harm the other principles and the SDG8, and to any other sub-target of SDG8; and

b. contribute to the achievement of policy objectives set in European frameworks signed by the European social partners and do not harm any of the principles set in the EPSR and to SDG8 and any other sub-target of SDG8.

Finally, the ETUC asks that the EU taxonomy for social investments will require that all concerned activities or entities abide by the fundamental standards set in the European Charter of Fundamental Rights, ILO Conventions, UNGP and OECD Guidelines for Multinational Enterprises. Still the Minimum Safeguards may concern main areas where the green taxonomy applies the do not harm principle.